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FEB 22 2006

ARIZONA CORPORATION COMMISSION  
HEARING DIVISION

57

BEFORE THE ARIZONA CORPORATION  
COMMISSION

IN THE MATTER OF:

THE APPLICATION FOR EMERGENCY  
INTERIM  
RATE RELIEF FOR MIRACLE VALLEY WATER  
COMPANY, INC.  
ET AL.

DOCKET NO. W-01646A-06-0010

W-01646A-06-0010 W-01868A-06-0010  
W-02235A-06-0010 W-02316A-06-0010  
W-02230A-06-0010 W-01629A-06-0010  
W-02240A-06-0010

AN ALTERNATIVE PROPOSAL  
TO THE ORIGINAL APPLICATION

SUBMITTED BY

INTERVENOR STEVE COCKRUM  
HEREFORD, AZ

FEBRUARY 22, 2006

AZ CORP COMMISSION  
DOCUMENT CONTROL

2006 FEB 23 A 10:15

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STATISTICAL DATA, EXCEPT WHERE  
NOTED  
OBTAINED FROM THE 2005 WATER  
AND  
WASTEWATER RESIDENTIAL RATE  
SURVEY  
FOR THE STATE OF ARIZONA  
PUBLISHED BY THE  
WATER INFRASTRUCTURE FINANCE  
AUTHORITY  
OF ARIZONA  
PHOENIX, ARIZONA 85007

### Background and Statistical Data

For the State of Arizona, based upon 434 reporting companies, and based upon a monthly usage of 7,500 gallons, the lowest rate was charged by Grandview Water Company at \$5.22; the highest rate was charged by Tonto Hills Utility at \$102.90. For the State in its entirety, the average monthly charge for a usage of 7,500 gallons was \$30.36 while the median monthly charge was \$27.75.

For Cochise County, the lowest rate charged for a 7,500 gallon usage was \$5.88; the highest rate charged for an identical usage was \$66.05. For the County generally, the average amount charged for the usage of 7,500 gallons was \$28.22 while the median monthly charge was \$24.71.

The following is a representation of the current rate structure for the seven companies that comprise the "McLain System".

- A.) Cochise Water: minimum monthly = \$20.00 (allowing the first 2000 gallons), then from 2001-100,000 gallons at \$3.00/1000 gallons.
- B.) Horseshoe Ranch Water: minimum monthly = \$17.00 (allowing the first 1000 gallons), then from 1001-100,000 gallons at \$3.00/1000 gallons.
- C.) Miracle Valley Water: minimum monthly = \$10.00 (allowing the first 2000 gallons), then from 2001-100,000 gallons at \$1.00/1000 gallons.
- D.) Crystal Water: minimum monthly = \$12.00 (allowing the first 2000 gallons), then from 2001-100,000 gallons at \$2.25/1000 gallons.
- E.) Mustang Water: minimum monthly = \$15.00 (allowing the first 1000 gallons), then from 1001-100,000 gallons at \$2.50/1000 gallons.
- F.) Coronado Estates Water: minimum monthly = \$12.00 (allowing the first 2000 gallons), then from 2001-100,000 gallons at \$2.25/1000 gallons.
- G.) Sierra Sunset Water: Unknown

A customer, using 7,500 gallons in a typical month, would be billed, exclusive of any taxes, and based upon the current rate structure as follows:

A.) Cochise Water: \$20.00 + (5,500 x \$3.00/1000) \$16.50 to total	<b><u>\$36.50</u></b>
B.) Horseshoe Ranch Water: \$17.00 + (6,500 x \$3.00/1000) \$19.50 to total	<b><u>\$36.50</u></b>
C.) Miracle Valley Water: \$10.00 + (5,500 x \$1.00/1000) \$5.50 to total	<b><u>\$15.50</u></b>
D.) Crystal Water: \$12.00 + (5,500 x \$2.25/1000) \$12.38 to total	<b><u>\$24.38</u></b>

E.) Mustang Water:  $\$15.00 + (6,500 \times \$2.50/1000)$  \$16.25 to total **\$31.25**

F.) Coronado Estates:  $\$12.00 + (5,500 \times \$2.25/1000)$  \$12.38 to total **\$24.38**

G.) Sierra Sunset: Unknown

Information based upon the Application as filed by ASUA, the present total connections, by company, is as follows:

A.) Cochise Water: **413** 31.7%

B.) Horseshoe Ranch Water: **220** 16.9%

C.) Miracle Valley Water: **299** 23.0%

D.) Crystal Water: **63** 4.8%

E.) Mustang Water: **71** 5.5%

F.) Coronado Water: **209** 16.1%

Sierra Sunset: **26** 2.0%

Grand Total of all Connections: **1301** 100.0%

From the point of the Bankruptcy filing that occurred on, or about, July 20, 2003, the seven companies that comprise the "McLain System" have been thought of, for all intents and purposes, as one single entity. This commingling has legitimacy and accuracy when referring to a discussion of Cochise Water Company and Horseshoe Ranch Water Company as these two entities are currently interconnected and Horseshoe Ranch Water Company is completely dependent upon Cochise Water Company for its supply of water. This "commingling is further supported by the Long Term Improvements as listed on Attachment "D", pages 4 and 5 concerning the interconnection of the Mustang and Crystal Water Companies, and on pages 6 and 7 of the same attachment concerning the interconnection of Coronado and Sierra Sunset Water Companies. The referenced attachment is a part of the Staff Memorandum dated February 7, 2006 In Re: Docket # W-01646A-06-0010.

### **Conclusions and Observations**

- 1.) Based upon the current rate structure in place, there currently exists a significant disparity between the "burden" that is imposed upon the consumers of these companies as it relates to monthly charges. Based

upon an average consumer usage of 7,500 gallons per month, the greatest disparity exists between the customers of the Cochise/Horseshoe Ranch Water system who pay a total of \$36.50 per month vs. the Miracle Valley Water Company customers who pay \$15.50 for the same amount of usage. This calculates to a difference of \$21.00 per month or 57.5% when compared to the total paid by Cochise/Horseshoe customers. Disparity, to a lesser degree, but still significant, exists between the other companies as well when compared to one another.

- 2.) The average monthly charge for a 7,500-gallon usage in Cochise County is \$28.22, therefore Cochise/Horseshoe Ranch Water Companies exceeds this average by \$8.28 or 29.34% (based upon the \$28.22 average), while Miracle Valley Water Company lags the average by \$12.72 or 45.07% (again based upon the \$28.22 average). If these system companies are going to be thought of as basically being one single entity, and especially for financial purposes it would seem to this writer that parity MUST exist between all of the consumers regardless of their specific water company. Once that parity is achieved, then the specifics of the financial considerations can be more properly addressed. If, however, this parity cannot be achieved, then these issues must, by default, be addressed on a company-by-company basis and that further complicates the issues greatly.
- 3.) To put the Cochise County averages into perspective and compare them to all of Arizona, of the 434 companies reporting, and again on a usage of 7,500 gallons, the Arizona average is \$30.36, \$2.14 or 7.58% above Cochise County. For a comparison of the individual companies that comprise the "McLain System", refer to Attachment "A" found at the end of this document.
- 4.) The Application addresses three separate financial areas, two of those areas being fixed cost considerations and the third area being one of variable cost. Of the projected \$11,700.00 in monthly revenue increase, a monthly amount of \$4,167.00 is earmarked for the Accounts Payable Buy

Down, a fixed cost; a monthly amount of \$4,167.00 is earmarked for Repairs and Infrastructure Upgrade (outside and beyond the normal Repair and Maintenance function) that again is a fixed cost; and the balance of \$3,434.00 is earmarked to cover Operational cost cash shortfall projections, a variable cost. In terms of the Surcharge request as currently proposed, approximately \$6.41 (71.2%) calculated as  $\$4,167/1300 \times 2$  is for Fixed Cost consideration and the balance of \$2.59 is reserved for Variable Cost. The wisdom of having a fixed surcharge to cover a variable cost seems to this writer to be a very risky and speculative step; would it not be more prudent to cover variable cost factors using a variable cost adjustor to allow for ups and/or downs that could not be projected?

- 5.) I think that a discussion of the individual companies that comprise the "McLain System" is relevant in terms of what I call "contribution". By this I mean to evaluate a company's operations, costs, and revenues and make a determination as to whether that company is contributing positively to the overall results, or, in the transverse, is the company's operations, costs, and revenues contributing negatively to the overall results. Expressed more simply, are any of these companies, when evaluated alone, contributing to the problem, or are they contributing to the solution. I would suggest that we have a situation where both situations exist, and I would argue, were it not for those companies on the positive side of the ledger, the situation would be much worse indeed. I strongly suggest that evaluation and analysis take place if it does not currently exist.
- 6.) Do these companies desperately need help; of that there is no doubt. The solution, in this particular instance, is money along with a strong and dedicated management team. However, lacking one or the other will not bring about the desired results. The greatest, and most dedicated management team will fail to achieve its goal without the proper financial backing; conversely, no amount of money will solve the issues facing an organization that is grossly mismanaged.

- 7.) There appears to be a direct relationship between the rates that are charged for water and its usage. As the rates decline, the usage increases and subsequently as rates increase, usage declines. Water usage, especially in the San Pedro Watershed is a very sensitive subject. Any program that is put into place should stress conservation of this very valuable, but scarce resource, but not be so restrictive as to jeopardize safety or prudent use.

### **THE PROPOSED ORDER**

- 1.) Beginning on the first day of the month following approval of this order, the following rates shall be placed into effect for all connections, present and future: a.) The minimum monthly billing shall be \$17.00 with NO allowance for usage; b.) For usage from 1-9,999 Gallons the rate shall be computed at \$2.25 per 1000 Gallons or fraction thereof, then c.) For usage from 10,000-49,999 Gallons the rate shall be computed at \$2.50 per 1000 Gallons or fraction thereof, then d.) For usage from 50,000-74,999 Gallons the rate shall be computed at \$3.00 per 1000 Gallons or fraction thereof, then e.) For usage from 75,000-infinity the rate shall be computed at \$4.50 per 1000 Gallons or fraction thereof. Until properly situated, this schedule will not apply to Sierra Sunset Water Company; refer to #2 below.
- 2.) The situation at Sierra Sunset Water Company is unacceptable and must be corrected as quickly as possible. If the installation of individual meters at each of the connections cannot be completed in a timely fashion due to constraints of either time or money, then the following shall be put into effect immediately. The Operator shall install, at Operator's expense, a metering device to measure the output of the well pump; the results of this metering shall be equally divided between the total connections then in place on the system and the bill shall be calculated based upon the formula expressed in #1 above. This shall not apply, however, to connections that are seasonal in nature and shall only apply to those connections that are otherwise active. It shall be the responsibility of the individual consumer to provide timely notice to the Operator in the event that a connection will be inactive; during the period of inactivity the minimum monthly charge only shall apply. Consumer notification after the fact of inactivity shall not relieve the consumer from paying the charges as noted on their invoice. The Operator shall at the earliest possible moment provide, at Operator's expense, individual metering

devices at each connection; following completion of these installations, the billing shall revert to that as expressed in #1 above.

- 3.) The Operator shall file with the appropriate authorities all of the necessary documentation to obtain a Certificate of Convenience and Necessity along with a Franchise Agreement with Cochise County, if applicable, for Sierra Sunset Water Company. If necessary, this CCN can be Provisional or Temporary as required because of the possibility of an ownership change in the near future.
- 4.) To provide for the necessary accountability associated with the increase in revenues, the Operator shall create and post on Operator's Web Site in a conspicuous location, and in a format that is easily readable such as .doc or .pdf, the following: a.) An Annual, Semi-Annual, Quarterly, and Monthly Budget for each of the seven individual water companies, and b.) A detailed accounting of the plan to reduce the accumulated past due balances owed to the various and sundry vendors of the Operator, this detail to show the amount to be paid to which vendor, on what timeline, and the remaining balance to be paid following each payment along with the amount of each payment that is applied to the principal and that amount that is applied to interest on the debt, if applicable, and c.) A detailed Source and Use of Funds Statement for each of the individual companies, issued monthly, and d.) A Profit and Loss Statement, by company, by month, and e.) A detailed Plan for Repair and/or Infrastructure Upgrade as noted in Operator's Application, to include timeline and projected costs. The financial data compiled each month is to be posted not later than 10<sup>th</sup> business day following the last day of the month being reported. This material, in addition to being made available electronically, shall also be made available in printed format and will be mailed, by First Class Mail to those consumers requesting it.
- 5.) A portion of the revenues being requested in Operator's Application are subject to a priority claim currently before the United States Bankruptcy Court located in Tucson, Arizona in a case entitled In Re: Johnny A McLain and Linda M McLain, husband and wife, et. al., Debtor, Chapter 11 Proceeding, Case No. 4-03-04125-EWH. The payment of this claim is subject to the sale of the water companies and possibly other assets of the debtors. Should this claim be paid prior to the finalization of the Accounts Payable Buy Down, then the excess revenues created as a result of this payment shall immediately be applied to additional Repair and/or Infrastructure Upgrade as noted in #4 (e) above.
- 6.) The Operator shall solicit participation in an "Audit Committee" to be comprised of the following: a.) At least one consumer from each of the seven water companies. If there is not sufficient participation from the water companies, then consumers will be "at large", and b.) One or more representatives of the Operator, and c.) One or more representatives of the various and sundry regulatory agencies, that can include, but not necessarily are limited to the Arizona Corporation Commission, the Arizona Department of Environmental Quality. This Committee shall

meet at least quarterly at a time and place to be agreed upon. This Committee will review the performance and operations of the water companies and may make suggestions or recommendations to the Operator in an effort to improve performance; however no suggestion or recommendation shall be binding upon the Operator.

- 7.) The Operator, at Operator's expense, shall create and publish, at least monthly, a "Newsletter" that will address operations of the seven water companies. This document will be available electronically, in .doc or .pdf format, and posted on the Operator's Web Site, or will be available in printed form to be mailed, at Operator's expense, to those consumers of record that request it.
- 8.) In light of the situation that is occurring in the Bankruptcy action, specifically the "special advisor" being appointed to pursue the sale of the Assets of the McLain owned WDBS system and that the consummation of that sale and final discharge from the Bankruptcy proceedings may take many additional months, and that there is considerable concern about continuing deteriorating conditions as we approach the Late Spring and Summer seasons, we request the following temporary consideration be given to the use of any additional funds available to the Operator. We feel that we are very ill prepared for the possibility of outages that are almost sure to occur later this year. The late Spring and Summer represent the most dangerous time to experience an outage. As the Health and Safety of the consumers of the water companies is of the utmost concern and the number 1 priority of all concerned we request that the majority of the new revenues derived from the adjustments, if granted and approved, be devoted exclusively to infrastructure upgrades at the individual water companies in an effort to reduce the possibility of numerous and/or lengthy outages. These improvements should be based upon engineering input from as many sources as possible; however, the engineering "costs" should be kept as low as possible by utilizing existing "public" resources.

### **FINANCIAL IMPACT UPON THE CONSUMER**

- 1.) The impact upon the consumer based upon the rate adjustments as noted above would depend upon the water company that serves the particular consumer, and the amount of water that is used each month. The greatest impact of the adjusted rates will be to the consumers on the Miracle Valley Water Company, however, the overall impact can be mitigated to some extent by the judicious use of water for drinking and other purposes. Generally speaking, all of the consumers on all of the system water companies can expect to see some difference in the amount of their monthly bills. The consumers on the Cochise/Horseshoe Ranch companies

should expect to see the smallest change, all other factors being equal, as the consumers on these companies have been paying the higher rates during this entire period. Regardless, all of the consumers will be paying the same effective rate for water as every other consumer on any of the "McLain System" companies, effectively curing a long standing injustice.

- 2.) It is unfortunate that this degree of rate adjustment is necessary, as Arizona consumers have also seen dramatic rates of increase in Natural Gas, Gasoline, and Electrical Energy. For those consumers that are on fixed incomes, it may be especially difficult. It is hoped that our Legislators may look seriously at this situation in terms of the current State Budget Surplus and propose some sort of program that would assist those for whom these increases, in the aggregate will present a severe financial hardship.

DATE MO/YR	REPORTED CONNECTIONS	GALLONS SOLD	COMPANY: Cochise Water Company				EXCESS BILLED	TOTAL BILLED	AVERAGE BILLING
			AVERAGE USAGE	GALLON ALLOWANCE	NET BILLABLE	MINIMUM BILLING			
2005/01	369	1,132,550	3,069	<738,000>	394,550	\$7,380.00	\$1,183.65	\$8,563.65	\$23.21
2005/02	376	2,422,720	6,443	<752,000>	1,670,720	\$7,520.00	\$5,012.16	\$12,532.16	\$33.33
2005/03	372	1,492,210	4,011	<744,000>	748,210	\$7,440.00	\$2,244.63	\$9,684.63	\$26.03
2005/04	378	2,489,780	6,587	<756,000>	1,733,780	\$7,560.00	\$5,201.34	\$12,761.34	\$33.76
2005/05	385	2,272,840	5,903	<770,000>	1,502,840	\$7,700.00	\$4,508.52	\$12,208.52	\$31.71
2005/06	386	2,788,210	7,223	<772,000>	2,016,210	\$7,720.00	\$6,048.63	\$13,768.63	\$35.67
2005/07									
2005/08									
2005/09									
2005/10									
2005/11									
2005/12									
TOTALS									

THIS ANALYSIS CREATED BY THE AUTHOR USING DATA PROVIDED BY ASUA  
WATER USE DATA SHEETS

DATE MO/YR	REPORTED CONNECTIONS	GALLONS SOLD	COMPANY: Horseshoe Ranch Water Company					TOTAL BILLED		AVERAGE BILLING	
			AVERAGE USAGE	GALLON ALLOWANCE	NET BILLABLE	MINIMUM BILLING	EXCESS BILLED				
2005/01	200	1,199,200	5,996	<200,000>	999,200	\$3,400.00	\$2,997.60	\$6,397.60	\$31.99		
2005/02	205	930,770	4,540	<205,000>	725,770	\$3,485.00	\$2,177.31	\$5,662.31	\$27.62		
2005/03	203	1,032,780	5,088	<203,000>	829,780	\$3,451.00	\$2,489.34	\$5,940.34	\$29.26		
2005/04	199	1,198,740	6,024	<199,000>	999,740	\$3,383.00	\$2,999.22	\$6,382.22	\$32.07		
2005/05	204	1,589,820	7,793	<204,000>	1,385,820	\$3,468.00	\$4,157.46	\$7,625.46	\$37.38		
2005/06	203	1,463,390	7,209	<203,000>	1,260,390	\$3,451.00	\$3,781.17	\$7,232.17	\$35.63		
2005/07											
2005/08											
2005/09											
2005/10											
2005/11											
2005/12											
TOTALS											

\* DATA NOT CONSIDERED DUE TO REPORTING ERROR

DATE MO/YR	REPORTED CONNECTIONS	GALLONS SOLD	COMPANY: Miracle Valley Water Company, Inc.				EXCESS BILLED	TOTAL BILLED	AVERAGE BILLING
			AVERAGE USAGE	GALLON ALLOWANCE	NET BILLABLE	MINIMUM BILLING			
2005/01	253	434,230 *	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2005/02	255	2,425,000	9,510	<510,000>	1,915,000	\$2,550.00	\$1,915.00	\$4,465.00	\$17.51
2005/03	255	1,421,600	5,575	<510,000>	911,600	\$2,550.00	\$911.60	\$3,461.60	\$13.58
2005/04	252	2,740,490	10,875	<504,000>	2,236,490	\$2,520.00	\$2,236.49	\$4,756.49	\$18.88
2005/05	255	2,102,396	8,245	<510,000>	1,592,396	\$2,550.00	\$1,592.40	\$4,142.40	\$16.24
2005/06	254	2,530,325	9,962	<508,000>	2,022,325	\$2,540.00	\$2,022.33	\$4,562.33	\$17.96
2005/07									
2005/08									
2005/09									
2005/10									
2005/11									
2005/12									
TOTALS									

			COMPANY: Coronado Water Company								
DATE	REPORTED	GALLONS	AVERAGE	GALLON	NET	MINIMUM	EXCESS	TOTAL	AVERAGE		
MO/YR	CONNECTIONS	SOLD	USAGE	ALLOWANCE	BILLABLE	BILLING	BILLED	BILLED	BILLING		
2005/01	183	1,088,350	5,947	<366,000>	722,350	\$2,196.00	\$1,625.29	\$3,821.29	\$20.88		
2005/02	193	1,132,070	5,866	<386,000>	746,070	\$2,316.00	\$1,678.66	\$3,994.66	\$20.70		
2005/03	191	1,571,060	8,225	<382,000>	1,189,060	\$2,292.00	\$2,675.39	\$4,967.39	\$26.01		
2005/04	193	1,806,690	9,361	<386,000>	1,420,690	\$2,316.00	\$3,196.55	\$5,512.55	\$28.56		
2005/05	195	2,035,660	10,439	<390,000>	1,645,660	\$2,340.00	\$3,702.74	\$6,042.74	\$30.99		
2005/06	193	2,053,320	10,639	<386,000>	1,667,320	\$2,316.00	\$3,751.47	\$6,067.47	\$31.44		
2005/07											
2005/08											
2005/09											
2005/10											
2005/11											
2005/12											
TOTALS											

DATE MO/YR	REPORTED CONNECTIONS	GALLONS SOLD	COMPANY: Crystal Water Company				MINIMUM BILLING	EXCESS BILLED	TOTAL BILLED	AVERAGE BILLING
			AVERAGE USAGE	GALLON ALLOWANCE	NET BILLABLE					
2005/01	59	281,520	4,771	<118,000>	163,520		\$708.00	\$367.92	\$1,075.92	\$18.23
2005/02	62	266,900	4,305	<124,000>	142,900		\$744.00	\$357.25	\$1,101.25	\$17.76
2005/03	62	425,840	6,868	<124,000>	301,840		\$744.00	\$679.14	\$1,423.14	\$22.95
2005/04	62	502,040	8,097	<124,000>	378,040		\$744.00	\$850.59	\$1,594.59	\$25.72
2005/05	64	903,110	14,111	<128,000>	775,110		\$768.00	\$1,744.00	\$2,512.00	\$39.25
2005/06	63	785,500	12,468	<126,000>	659,500		\$756.00	\$1,483.88	\$2,239.88	\$35.55
2005/07										
2005/08										
2005/09										
2005/10										
2005/11										
2005/12										
TOTALS										

## ATTACHMENT A

			COMPANY: Mustang Water Company							
DATE MO/YR	REPORTED CONNECTIONS	GALLONS SOLD	AVERAGE USAGE	GALLON ALLOWANCE	NET BILLABLE	MINIMUM BILLING	EXCESS BILLED	TOTAL BILLED	AVERAGE BILLING	
2005/01	66	334,730	5,072	<66,000>	268,730	\$990.00	\$671.83	\$1,661.83	\$25.18	
2005/02	66	284,410	4,309	<66,000>	218,410	\$990.00	\$546.03	\$1,536.03	\$23.27	
2005/03	65	332,800	5,120	<65,000>	267,800	\$975.00	\$669.50	\$1,644.50	\$25.30	
2005/04	67	440,090	6,569	<67,000>	373,090	\$1,005.00	\$932.72	\$1,937.73	\$28.92	
2005/05	66	534,040	8,092	<66,000>	468,040	\$990.00	\$1,170.10	\$2,160.10	\$32.73	
2005/06	66	531,780	8,057	<66,000>	465,780	\$990.00	\$1,164.45	\$2,154.45	\$32.64	
2005/07										
2005/08										
2005/09										
2005/10										
2005/11										
2005/12										
TOTALS										

			COMPANY: Sierra Sunset Water Company							
DATE	REPORTED	GALLONS	AVERAGE	GALLON	NET	MINIMUM	EXCESS	TOTAL	AVERAGE	
MO/YR	CONNECTIONS	SOLD	USAGE	ALLOWANCE	BILLABLE	BILLING	BILLED	BILLED	BILLING	
2005/01	28	*	*	*	*	*	*			
2005/02	28	*	*	*	*	*	*			
2005/03	27	*	*	*	*	*	*			
2005/04	27	*	*	*	*	*	*			
2005/05	27	*	*	*	*	*	*			
2005/06	27	*	*	*	*	*	*			
2005/07		*	*	*	*	*	*			
2005/08		*	*	*	*	*	*			
2005/09		*	*	*	*	*	*			
2005/10		*	*	*	*	*	*			
2005/11		*	*	*	*	*	*			
2005/12		*	*	*	*	*	*			
TOTALS		*	*	*	*	*	*			

\* This System Is Unmetered and Data is Not Available